

Subpart 2. Noncompliance with Article.

§ 25-9-625. Remedies for secured party's failure to comply with Article.

(a) Judicial orders concerning noncompliance. – If it is established that a secured party is not proceeding in accordance with this article, a court may order or restrain collection, enforcement, or disposition of collateral on appropriate terms and conditions.

(b) Damages for noncompliance. – Subject to subsections (c), (d), and (f) of this section, a person is liable for damages in the amount of any loss caused by a failure to comply with this Article. Loss caused by a failure to comply may include loss resulting from the debtor's inability to obtain, or increased costs of, alternative financing.

(c) Persons entitled to recover damages; statutory damages if collateral is consumer goods. – Except as otherwise provided in G.S. 25-9-628:

- (1) A person that, at the time of the failure, was a debtor, was an obligor, or held a security interest in or other lien on the collateral may recover damages under subsection (b) of this section for its loss; and
- (2) If the collateral is consumer goods, a person that was a debtor or a secondary obligor at the time a secured party failed to comply with this Part may recover for that failure in any event an amount not less than the credit service charge plus ten percent (10%) of the principal amount of the obligation or the time-price differential plus ten percent (10%) of the cash price.

(d) Recovery when deficiency eliminated or reduced. – A debtor whose deficiency is eliminated under G.S. 25-9-626 may recover damages for the loss of any surplus. However, a debtor or secondary obligor whose deficiency is eliminated or reduced under G.S. 25-9-626 may not otherwise recover under subsection (b) of this section for noncompliance with the provisions of this Part relating to collection, enforcement, disposition, or acceptance.

(e) Statutory damages: noncompliance with specified provisions. – In addition to any damages recoverable under subsection (b) of this section, the debtor, consumer obligor, or person named as a debtor in a filed record, as applicable, may recover five hundred dollars (\$500.00) in each case from a person that:

- (1) Fails to comply with G.S. 25-9-208;
- (2) Fails to comply with G.S. 25-9-209;
- (3) Files a record that the person is not entitled to file under G.S. 25-9-509(a);
- (4) Fails to cause the secured party of record to file or send a termination statement as required by G.S. 25-9-513(a) or (c);
- (5) Fails to comply with G.S. 25-9-616(b)(1) and whose failure is part of a pattern, or consistent with a practice, of noncompliance; or
- (6) Fails to comply with G.S. 25-9-616(b)(2).

(f) Statutory damages: noncompliance with G.S. 25-9-210. – A debtor or consumer obligor may recover damages under subsection (b) of this section and, in addition, five hundred dollars (\$500.00) in each case from a person that, without reasonable cause, fails to comply with a request under G.S. 25-9-210. A recipient of a request under G.S. 25-9-210 which never claimed an interest in the collateral or obligations that are the subject of a request under that section has a reasonable excuse for failure to comply with the request within the meaning of this subsection.

(g) Limitation of security interest: noncompliance with G.S. 25-9-210. – If a secured party fails to comply with a request regarding a list of collateral or a statement of account under G.S. 25-9-210, the secured party may claim a security interest only as shown in the list or statement included in the request as against a person that is reasonably misled by the failure. (1965, c. 700, s. 1; 1975, c. 862, s. 7; 2000-169, s. 1; 2012-70, s. 18.)